

FEDERAL HOME LOAN BANK ACT

[Chapter 522 of the 72nd Congress; 47 Stat. 725]

[47 Stat. 725; 12 U.S.C. 1421 et seq.]

[As Amended Through P.L. 114–94, Enacted December 4, 2015]

【Currency: This publication is a compilation of the text of Chapter 522 of the 72nd Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To create Federal Home Loan Banks, to provide for the supervision thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Federal Home Loan Bank Act.”【12 U.S.C. 1421】

DEFINITIONS

SEC. 2. 【12 U.S.C. 1422】 As used in this Act—

(1)(A) BANK.—The term “Federal Home Loan Bank” or “Bank” means a bank established under the authority of the Federal Home Loan Bank Act.

(B) BANK SYSTEM.—The term “Federal Home Loan Bank System” means the Federal Home Loan Banks under the supervision of the Director.

(2) STATE.—The term “State”, in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3)¹ The term “member” means any institution which has subscribed for the stock of a Federal Home Loan Bank.

(4)¹ The term “home mortgage loan” means a loan made by a member upon the security of a home mortgage.

(5)¹ The term “home mortgage” means a mortgage upon real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which is located, or which comprises

¹ Indentations so in original.

or includes, one or more homes or other dwelling units, all of which may be defined by the Director, and shall include, in addition to first mortgages, such classes of first liens as are commonly given to secure advances on real estate by institutions authorized under this Act to become members, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(6)¹ The term “unpaid principal,”² when used in respect of a loan secured by a home mortgage means the principal thereof less the sum of (1) payments made on such principal, and (2) in cases where shares or stock are pledged as security for the loan, the payments made on such shares or stock plus earnings or dividends apportioned or credited thereon.

(7)³ An “amortized” or “installment” home mortgage loan shall, for the purposes of this Act, be a home mortgage loan to be repaid or liquidated in not less than eight years by means of regular weekly, monthly, or quarterly payments made directly in reduction of the debt or upon stock or shares pledged as collateral for the repayment of such loan.

(8) SAVINGS ASSOCIATION.—The term “savings association” has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

(9) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” means—

(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), and

(B) except as used in sections 21A and 21B, an insured credit union (as defined in section 101 of the Federal Credit Union Act).

(10) COMMUNITY FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term “community financial institution” means a member—

(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

(ii) that has, as of the date of the transaction at issue, less than \$1,000,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

(B) ADJUSTMENTS.—The \$1,000,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Director, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.

(11) DIRECTOR.—The term “Director” means the Director of the Federal Housing Finance Agency.

(12) AGENCY.—The term “Agency” means the Federal Housing Finance Agency, established under section 1311 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

【Sections 2A and 2B were repealed by Public Law 110–289】

²So in law. Comma probably should not be within the quotation marks.

³Indentations so in original.

FEDERAL HOME LOAN BANKS

SEC. 3. [12 U.S.C. 1423] (a) IN GENERAL.—As soon as practicable the Director shall divide the continental United States, Puerto Rico, the Virgin Islands, Guam, and the Territories of Alaska and Hawaii into not less than eight nor more than twelve districts. Such districts shall be apportioned with due regard to the convenience and customary course of business of the institutions eligible to and likely to subscribe for stock of a Federal Home Loan Bank to be formed under this Act, but no such district shall contain a fractional part of any State. The districts thus created may be re-adjusted and new districts may from time to time be created by the Director, not to exceed twelve in all. Such districts shall be known as Federal Home Loan Bank districts and may be designated by number. As soon as practicable the Director shall establish, in each district, a Federal Home Loan Bank at such city as may be designated by the Director. Its title shall include the name of the city at which it is established.

(b) AUTHORITY TO REDUCE DISTRICTS.—Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 26(b); or

(2) pursuant to a decision by the Director to liquidate a Bank pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

ELIGIBILITY OF MEMBERS AND NONMEMBER BORROWERS

SEC. 4. [12 U.S.C. 1424] (a) CRITERIA FOR ELIGIBILITY.—

(1) IN GENERAL.—Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution, or any insured depository institution (as defined in section 2 of this Act), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

(A) is duly organized under the laws of any State or of the United States;

(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994⁴; and

(C) makes such home mortgage loans as, in the judgment of the Director, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Director, its time deposits, as de-

⁴ Carried out above to reflect the probable intent of Congress. Section 1206(2) of P.L. 110-289 (122 Stat. 2654) amended this subparagraph by inserting “or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994.” after “United States.”

fined in section 19 of the Federal Reserve Act, warrant its making such loans).

(2) **QUALIFIED THRIFT LENDER.**—An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

(A) the insured depository institution (other than a community financial institution) has at least 10 percent of its total assets in residential mortgage loans;

(B) the insured depository institution's financial condition is such that advances may be safely made to such institution; and

(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

(3) **CERTAIN INSTITUTIONS.**—An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Director for the 10 percent asset requirement (described in the⁵ paragraph (2)) within one year after the commencement of its operations.

(4) **LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.**—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).

(5) **CERTAIN PRIVATELY INSURED CREDIT UNIONS.**—

(A) **IN GENERAL.**—Subject to the requirements of subparagraph (B), a credit union shall be treated as an insured depository institution for purposes of determining the eligibility of such credit union for membership in a Federal home loan bank under paragraphs (1), (2), and (3).

(B) **CERTIFICATION BY APPROPRIATE SUPERVISOR.**—

(i) **IN GENERAL.**—For purposes of this paragraph and subject to clause (ii), a credit union which lacks Federal deposit insurance and which has applied for membership in a Federal home loan bank may be treated as meeting all the eligibility requirements for Federal deposit insurance only if the appropriate supervisor of the State in which the credit union is chartered has determined that the credit union meets all the eligibility requirements for Federal deposit insurance as of the date of the application for membership.

(ii) **CERTIFICATION DEEMED VALID.**—If, in the case of any credit union to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit

⁵So in law. Section 605(2)(B) of P.L. 106-102 (113 Stat. 1452) amended this section by striking "preceding sentence" and inserting "paragraph (2)". Should probably have struck "the" as well.

union shall be deemed to have met the requirements of clause (i).

(C) SECURITY INTERESTS OF FEDERAL HOME LOAN BANK NOT AVOIDABLE.—Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

(i) any extension of credit from any Federal home loan bank to any credit union which is a member of any such bank pursuant to this paragraph; or

(ii) any security interest in the assets of such credit union securing any such extension of credit.

(D) PROTECTION FOR CERTAIN FEDERAL HOME LOAN BANK ADVANCES.—Notwithstanding any State law to the contrary, if a Bank makes an advance under section 10 to a State-chartered credit union that is not federally insured—

(i) the Bank's interest in any collateral securing such advance has the same priority and is afforded the same standing and rights that the security interest would have had if the advance had been made to a federally insured credit union; and

(ii) the Bank has the same right to access such collateral that the Bank would have had if the advance had been made to a federally insured credit union.

(b) An institution eligible to become a member under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business, or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the Director.

(c) Notwithstanding the provisions of clause (2) of subsection (a) of this section requiring inspection and regulation under law as a condition with respect to eligibility for membership, any building and loan association which would be eligible to become a member of a Federal Home Loan Bank except for the fact that it is not subject to inspection and regulation under the banking laws or similar laws of the State in which such association is organized shall, upon subjecting itself to such inspection and regulation as the Director shall prescribe, be eligible to become a member.

【Sections 5, 5A, and 5B—Repealed by the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (see sections 705, 716, and 720 of such Act, 103 Stat. 416, 421, and 423).】

SEC. 6. [12 U.S.C. 1426] CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

(a) REGULATIONS.—

(1) CAPITAL STANDARDS.—Not later than 18 months after the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, the Director shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

(A) the leverage requirement specified in paragraph (2); and

(B) the risk-based capital requirements, in accordance with paragraph (3).

(2) LEVERAGE REQUIREMENT.—

(A) IN GENERAL.—The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the total assets of the bank and shall be 5 percent.

(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock and the amount of retained earnings shall be multiplied by 1.5, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio, except that a Federal home loan bank's total capital (determined without taking into account any such multiplier) shall not be less than 4 percent of the total assets of the bank.

(3) RISK-BASED CAPITAL STANDARDS.—

(A) RISK-BASED CAPITAL STANDARDS.—The Director shall, by regulation, establish risk-based capital standards for the Federal Home Loan Banks to ensure that the Federal Home Loan Banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal Home Loans Banks.

(B) CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based standard under subparagraph (A), the Director shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act), with such modifications as the Director determines to be appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Director under paragraph (1) shall—

(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares; and

(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares;

(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank,

and that a bank may not issue any stock other than as provided in this section;

(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the capital standards established under this subsection—

(A) permanent capital of a Federal home loan bank shall include—

(i) the amounts paid for the Class B stock; and

(ii) the retained earnings of the bank (as determined in accordance with generally accepted accounting principles); and

(B) total capital of a Federal home loan bank shall include—

(i) permanent capital;

(ii) the amounts paid for the Class A stock;

(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Director, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

(iv) any other amounts from sources available to absorb losses incurred by the bank that the Director determines by regulation to be appropriate to include in determining total capital.

(6) TRANSITION PERIOD.—Notwithstanding any other provision of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Director and implemented by such bank.

(b) CAPITAL STRUCTURE PLAN.—

(1) APPROVAL OF PLANS.—Not later than 270 days after the date of publication by the Director of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for approval by the Director a plan establishing and implementing a capital structure for such bank that—

(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

(B) meets the requirements of subsection (c); and

(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Director.

(2) APPROVAL OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Director for approval any modifications that the bank proposes to make to an approved capital structure plan.

(c) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

(1) MINIMUM INVESTMENT.—

(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

(B) INVESTMENT ALTERNATIVES.—

(i) IN GENERAL.—In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Director.

(ii) AUTHORIZED REQUIREMENTS.—A requirement is referred to in this clause if it is a requirement for—

(I) a stock purchase based on a percentage of the total assets of a member; or

(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

(C) MINIMUM AMOUNT.—Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Director under subsection (a).

(D) ADJUSTMENTS TO MINIMUM REQUIRED INVESTMENT.—The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Director, and shall require each member to comply promptly with any adjustments to the required minimum investment.

(2) TRANSITION RULE.—

(A) IN GENERAL.—The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a

member of the bank on the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, to come into compliance with the minimum investment required pursuant to the plan.

(B) INTERIM PURCHASE REQUIREMENTS.—The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

(3) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

(4) CLASSES OF STOCK.—

(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Director in accordance with its regulations.

(B) RIGHTS REQUIREMENT.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with regulations of the Director and market requirements.

(C) REDUCED MINIMUM INVESTMENT.—The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B⁶ in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Director.

(D) LIQUIDATION OF CLAIMS.—The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

(5) LIMITED TRANSFERABILITY OF STOCK.—The capital structure plan of a Federal home loan bank shall—

(A) provide that any stock issued by that bank shall be available only to and held only by members of that bank and tradable only between that bank and its members; and

(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

⁶So in law. Should probably be “Class B stock”.

(6) **BANK REVIEW OF PLAN.**—Before filing a capital structure plan with the Director, each Federal home loan bank shall conduct a review of the plan by—

(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

(B) at least one major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

(d) **TERMINATION OF MEMBERSHIP.**—

(1) **VOLUNTARY WITHDRAWAL.**—Any member may withdraw from a Federal home loan bank if the member provides written notice to the bank of its intent to do so and if, on the date of withdrawal, there is in effect a certification by the Director that the withdrawal will not cause the Federal Home Loan Bank System to fail to meet its obligation under section 21B(f)(2)(C) to contribute to the debt service for the obligations issued by the Resolution Funding Corporation. The applicable stock redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

(2) **INVOLUNTARY WITHDRAWAL.**—

(A) **IN GENERAL.**—The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to regulations of the Director, it determines that—

(i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a Federal or State authority with regulatory and supervisory responsibility for the member.

(B) **STOCK DISPOSITION.**—An institution, the membership of which is terminated in accordance with subparagraph (A)—

(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

(C) COMMENCEMENT OF NOTICE PERIOD.—With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

(i) the date of such termination; or

(ii) the date on which the member has provided notice of its intent to redeem such stock.

(3) LIQUIDATION OF INDEBTEDNESS.—Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

(e) REDEMPTION OF EXCESS STOCK.—

(1) IN GENERAL.—A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

(2) EXCESS STOCK.—Shares of stock held by a member shall not be deemed to be “excess stock” for purposes of this subsection by virtue of a member’s submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

(3) PRIORITY.—A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

(f) IMPAIRMENT OF CAPITAL.—If the Director or the board of directors of a Federal home loan bank determines that the bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Director while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

(g) REJOINING AFTER DIVESTITURE OF ALL SHARES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

(2) EXCEPTION FOR WITHDRAWALS FROM MEMBERSHIP BEFORE 1998.—Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Director and the requirements of this Act.

(h) TREATMENT OF RETAINED EARNINGS.—

(1) IN GENERAL.—The holders of the Class B stock of a Federal home loan bank shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

(2) EXCEPTION.—Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

(3) LIMITATION.—A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.

MANAGEMENT OF BANKS

SEC. 7. [12 U.S.C. 1427]

(a) NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

(2) BOARD MAKEUP.—The board of directors of each Bank shall be comprised of—

(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

(B) independent directors, who shall comprise not fewer than $\frac{2}{5}$ of the members of the board of directors.

(3) SELECTION CRITERIA.—

(A) IN GENERAL.—Each member of the board of directors shall be—

(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

(ii) a citizen of the United States.

(B) INDEPENDENT DIRECTOR CRITERIA.—

(i) IN GENERAL.—Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

(ii) PUBLIC INTEREST.—Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

(iii) CONFLICTS OF INTEREST.—No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home

Loan Bank or as a director, officer, or employee of any member of a Bank, or of any person that receives advances from a Bank.

(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(A) INDEPENDENT DIRECTOR.—The terms “independent director” and “independent directorship” mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(B) MEMBER DIRECTOR.—The terms “member director” and “member directorship” mean a member of the board of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(b) Each member directorship shall be designated by the Director as representing the members located in a particular State, and shall be filled by a person who is an officer or director of a member located in that State, each of which members shall be entitled to nominate an eligible person for such directorship, and such office shall be filled from such nominees by a plurality of the votes which such members may cast in an election held for the purpose of filling such office, in which election each such member may cast for such office a number of votes equal to the number of shares of stock in such bank required by this Act to be held by such member at the end of the calendar year next preceding the election, as determined pursuant to regulation of the Director, but not in excess of the average number of shares of stock in such bank required by this Act to be held at the end of such calendar year by the respective members of such bank located in such State, as so determined. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection and in subsection (c) of this section, the term “member” means a member of a Federal home loan bank which was a member of such bank at the end of such calendar year.

(2) INDEPENDENT DIRECTORSHIPS.—

(A) ELECTIONS.—Each independent director—

(i) shall be elected by the members entitled to vote, from among eligible persons nominated, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

(ii) shall be elected by a plurality of the votes of the members of the Bank at large, with each member having the number of votes for each such directorship as it has under paragraph (1) in an election to fill member directorships.

(B) CRITERIA.—Nominees shall meet all applicable requirements prescribed in this section.

(C) NOMINATION AND ELECTION PROCEDURES.—Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home

Loan Bank, in a manner consistent with the rules and regulations of the Agency.

(c) The number of member directorships designated as representing the members located in each separate State in a bank district shall be determined by the Director in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Director, of the members located in that State at the end of the calendar year next preceding the date of the election to the total required stock, as so determined, of all members of such bank at the end of such year, except that in the case of each State such number shall not be less than one and shall not be more than six. Notwithstanding any other provision of this section, (A) except as provided in clause (B) of this sentence, if at any time the number of member directorships so designated as representing the members located in any State would not be at least equal to the total number of member directorships which, on December 31, 1960, were filled by officers or directors of members whose principal places of business were located in such State, the Director shall add to the board of directors of the bank of the district in which such State is located such number of member directorships, and shall so designate the directorship or directorships thus added, that the number of member directorships designated as representing the members located in such State will equal said total number, and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks. Any member directorship so added shall exist only until the expiration of its first term. The Director shall, with respect to each member of a Federal home loan bank, designate the State in the district of such bank in which such member shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be located, and may from time to time change any such designation, but if the principal place of business of any such member is located in a State of such district it shall be the duty of the Director to designate such State as the State in which such member shall, for said purposes, be deemed to be located. As used in the second sentence of this subsection, the term "total number of member directorships" means the total number of member directorships on the board of directors of the bank of the district in which such State was located on December 31, 1960, and the term "members" where used for the second time in such sentence means members of such bank.

(d) The term of each director shall be 4 years. The board of directors of each Federal home loan bank and the Director shall adjust the terms of members first elected after the date of the enactment of the Federal Housing Finance Regulatory Reform Act of 2008 to ensure that the terms of the members of the board of directors are staggered with approximately $\frac{1}{4}$ of the terms expiring each year. If any person, before or after, or partly before and partly after, the date of the enactment of this sentence, has been elected to each of three consecutive full terms as a director of a Federal home loan bank and has served for all or part of each of said terms, such person shall not be eligible for election to a directorship of such bank for a term which begins earlier than two years after the expiration of the last expiring of said three terms. The Di-

rector is hereby authorized to prescribe such rules and regulations as it may deem necessary or appropriate for the nomination and election of directors of Federal home loan banks, including, without limitation on the generality of the foregoing, rules and regulations with respect to the breaking of ties and with respect to the inclusion of more than one directorship on a single ballot and the methods of voting and of determining the results of voting in such cases.

(e) Each term, outstanding on the effective date of the amendment to this section abolishing the division of elective directors into classes, of an elective or appointive directorship then existing shall continue until its original date of expiration, and any elective or appointive directorship in existence on said date shall continue to exist to the same extent as if it had been established by or under this section on or after said date. The Director in its discretion may shorten the next succeeding term of any such elective directorship to one year, and may fill such term by appointment. The term "States" or "State" as used in this section shall mean the States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico. The Director, by regulation or otherwise, may add an additional elective directorship to the board of directors of the bank of any district in which the Commonwealth of Puerto Rico is included at the time such directorship is added and which does not then include five or more States, may fix the commencement and the duration, which shall not exceed two years, of the initial term of any directorship so added, and may fill any such initial term by appointment: *Provided*, That (1) any directorship added pursuant to the foregoing provisions of this sentence shall be designated by the Director, pursuant to subsection (b) of this section, as representing the members located in the Commonwealth of Puerto Rico, (2) such designation of such directorship shall not be changed, and (3) such directorship shall automatically cease to exist if and when the Commonwealth of Puerto Rico ceases to be included in such district.

(f) VACANCIES.—

(1) IN GENERAL.—A Bank director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

(2) ELECTION PROCESS.—In the event of a vacancy in any Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) ELECTION.—The Chairperson and Vice Chairperson of the board of directors of each Federal home loan bank shall be elected by a majority of all the directors of such bank from among the directors of the bank.

(2) **TERMS.**—The term of office of the Chairperson and the Vice Chairperson of the board of directors of a Federal home loan bank shall be 2 years.

(3) **ACTING CHAIRPERSON.**—In the event of a vacancy in the position of Chairperson of the board of directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

(4) **PROCEDURES.**—The board of directors of each Federal home loan bank shall establish procedures, in the bylaws of such board, for designating an acting chairperson for any period during which the Chairperson and the Vice Chairperson are not available to carry out the requirements of that position for any reason and removing any person from any such position for good cause.

(h) If at any time when nominations are required members shall hold less than \$1,000,000 of the capital stock of the Federal home loan bank, the Director shall appoint a director or directors to fill the place or places for which such nominations are required, and the Director may, prior to the filing of the certificate mentioned in section 12, appoint directors who shall be respectively designated by it as appointive directors and as member directors, in accordance with the provisions of this section.

(i) **DIRECTORS' COMPENSATION.**—

(1) **IN GENERAL.**—Each bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, in accordance with the resolutions adopted by the such directors, subject to the approval of the board.

(2) **ANNUAL REPORT.**—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks.

(j) Such board of directors shall administer the affairs of the bank fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions hereof, extend to each institution authorized to secure advances such advances as may be made safely and reasonably with due regard for the claims and demands of other institutions, and with due regard to the maintenance of adequate credit standing for the Federal Home Loan Bank and its obligations.

(k) **INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES.**—The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.

(l) **WITHHOLDING OF COMPENSATION.**—Notwithstanding any other provision of this section, a Federal Home Loan Bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).

(1)⁷ **TRANSITION RULE.**—Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to the date of enactment of this subsection may continue to serve as a member of that board of directors for the remainder of the existing term of service.

EXAMINATIONS AND STUDIES BY THE BOARD

SEC. 8. [12 U.S.C. 1428] The Director shall cause to be made from time to time examinations of the laws of the various States of the United States and the regulations and procedure thereunder governing conditions under which institutions of the kinds which may become members or nonmember borrowers under this Act are permitted to be formed or to do business, or relating to the conveying or recording of land titles, or to homestead and other rights, or to the enforcement of the rights of holders of mortgages on lands securing loans, or otherwise. If any such examination shall indicate, in the opinion of the Director, that under the laws of any such State or the regulations or procedure thereunder there would be inadequate protection to a Federal Home Loan Bank in making or collecting advances under this Act, the Director may withhold or limit the operation of any Federal Home Loan Bank in such State until satisfactory conditions of law, regulation, or procedure shall be established. In any State where State examination of members or nonmember borrowers is deemed inadequate for the purposes of the Federal Home Loan Banks, the Director shall establish such examination, all or part of the cost of which may be considered as part of the cost of making advances in such State. The banks and/or the Director may make studies of trends of home and other property values, methods of appraisals, and other subjects such as they may deem useful for the general guidance of their policies and operations and those of institutions authorized to secure advances.

ELIGIBILITY TO SECURE ADVANCES

SEC. 9. [12 U.S.C. 1429] Any member of a Federal Home Loan Bank shall be entitled to apply in writing for advances. Such application shall be in such form as shall be required by the Federal Home Loan Bank. Such Federal Home Loan Bank may at its discretion deny any such application, or may grant it on such conditions as the Federal Home Loan Bank may prescribe.

SEC. 10. [12 U.S.C. 1430] ADVANCES TO MEMBERS.

(a) **IN GENERAL.**—

(1) **ALL ADVANCES.**—Each Federal Home Loan Bank is authorized to make secured advances to its members upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 11(g) of this Act.

(2) **PURPOSES OF ADVANCES.**—A long-term advance may only be made for the purposes of—

(A) providing funds to any member for residential housing finance; and

⁷So in law. Sections 1113(b)(3) and 1202(8) of Public Law 110-289 each added a new subsection (l) to section 7.

(B) providing funds to any community financial institution for small businesses, small farms, small agri-businesses, and community development activities.

(3) COLLATERAL.—A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:

(A) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

(B) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

(C) Cash or deposits of a Federal Home Loan Bank.

(D) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral.

(E) Secured loans for small business, agriculture, or community development activities or securities representing a whole interest in such secured loans, in the case of any community financial institution.

(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Federal home loan bank.

(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Director may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

(6) DEFINITIONS.—For purposes of this subsection, the terms “small business”, “agriculture”, “small farm”, “small agri-business”, and “community development activities” shall have the meanings given those terms by regulation of the Director.

(b) For the purposes of this section, each Federal Home Loan Bank shall have power to make, or to cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Federal Home Loan Bank shall be accepted if any director, officer, employee, attorney, or agent of the Federal Home Loan Bank or of the borrowing institution is personally liable thereon, unless the Director has specifically approved such acceptance.

(c) Such advances shall be made upon the note or obligation of the member secured as provided in this section, bearing such rate of interest as the Federal home loan bank⁸ may approve or determine, and the Federal Home Loan Bank shall have a lien upon and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Federal Home Loan Bank.

(d) The institution applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the bank. The bank shall reserve the right to require at any time, when deemed necessary for its protection, deposits of additional collateral security or substitutions of security by the borrowing institution, and each borrowing institution shall assign additional or substituted security when and as so required. Any Federal Home Loan Bank shall have power to sell to any other Federal Home Loan Bank, with or without recourse, any advance made under the provisions of this Act, or to allow to such bank a participation therein, and any other Federal Home Loan Bank shall have power to purchase such advance or to accept a participation therein, together with an appropriate assignment of security therefor.

(e) PRIORITY OF CERTAIN SECURED INTERESTS.—Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that—

(1) would be entitled to priority under otherwise applicable law; and

(2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.

(g)⁹ COMMUNITY SUPPORT REQUIREMENTS.—

(1) IN GENERAL.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Director shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

⁸So in law. The reference in subsection (c) to the “Federal home loan bank” probably should read “Federal Home Loan Bank”.

⁹So in law. Subsections (g)–(j) probably should be redesignated as subsections (f)–(i).

(2) **FACTORS TO BE INCLUDED.**—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.

(h)⁹ **SPECIAL LIQUIDITY ADVANCES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

(A) is solvent but presents a supervisory concern because of such association's poor financial condition; and

(B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(2) **INTEREST ON AND SECURITY FOR SPECIAL LIQUIDITY ADVANCES.**—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of section 10(a) of this Act, and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.

(i)¹⁰ **COMMUNITY INVESTMENT PROGRAM.**—

(1) **IN GENERAL.**—Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

(2) **COMMUNITY-ORIENTED MORTGAGE LENDING.**—For purposes of this subsection, the term “community-oriented mortgage lending” means providing loans—

(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

(j)¹⁰ **AFFORDABLE HOUSING PROGRAM.**—

(1) **IN GENERAL.**—Pursuant to regulations promulgated by the Director, each Bank shall establish an Affordable Housing Program to subsidize the interest rate on advances to members

¹⁰ See footnote to subsection (g).

engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates.

(2) STANDARDS.—The Board's¹¹ regulations shall permit Bank members to use subsidized advances received from the Banks to—

(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area;

(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term; or

(C) during the 2-year period beginning on the date of enactment of this subparagraph, use such percentage as the Director may by regulation establish of any subsidized advances set aside to finance homeownership under subparagraph (A) to refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.

(3) PRIORITIES FOR MAKING ADVANCES.—In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

(A)¹² purchase of homes by families whose income is 80 percent or less of the median income for the area,

(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

(4) REPORT.—Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

(5) CONTRIBUTION TO PROGRAM.—Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than \$50,000,000 for each such year.

(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be required to assure that the aggregate contribution of the Banks shall not be less than \$75,000,000 for such year.

¹¹So in law. Probably should read "Director's". See amendment made by section 1204(9) of Public Law 110-289.

¹²So in original. In subparagraphs (A) through (C) the first letter of the first word probably should be capitalized and subparagraphs (A) and (B) should probably end with a period.

(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than \$100,000,000 for each such year.

(6) GROUNDS FOR SUSPENDING CONTRIBUTIONS.—

(A) IN GENERAL.—If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Director for a temporary suspension of such payments.

(B) FINANCIAL INSTABILITY.—In determining the financial instability of a Bank, the Director shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

(C) REVIEW.—The Director shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's¹³ decision shall be accompanied by specific findings and reasons for its action.

(D) MONITORING SUSPENSION.—If the Director grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

(E) LIMITATIONS ON GROUNDS FOR SUSPENSION.—The Director shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

(F) The Director shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

(7) FAILURE TO USE AMOUNTS FOR AFFORDABLE HOUSING.—If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Director. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Affordable Housing Reserve Fund. Under regulations established by the Director, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional afford-

¹³So in law. Probably should read "Director's". See amendment made by section 1204(9) of Public Law 110-289.

able housing needs in such Bank's district pursuant to this section.

(8) NET EARNINGS.—The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

(A) after reduction for any payment required under section 21 or 21B of this Act; and

(B) before declaring any dividend under section 16.

(9) REGULATIONS.—The Director shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

(A) specify activities eligible to receive subsidized advances from the Banks under this program;

(B) specify priorities for the use of such advances;

(C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;

(D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;

(E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;

(F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and

(G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

(10) OTHER PROGRAMS.—No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

(11) ADVISORY COUNCIL.—Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Director at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

(12) REPORTS TO CONGRESS.—

(A) The Director shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community develop-

ment by the Banks and the utilization of advances for these purposes.

(B) The analyses submitted by the Advisory Councils to the Director under paragraph (11) shall be included as part of the report required by this paragraph.

(C) REPORTS.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.

(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008.

(13) DEFINITIONS.—For purposes of this subsection—

(A) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term “low- or moderate-income household” means any household which has an income of 80 percent or less of the area median.

(B) VERY LOW-INCOME HOUSEHOLD.—The term “very low-income household” means any household that has an income of 50 percent or less of the area median.

(C) LOW- OR MODERATE-INCOME NEIGHBORHOOD.—The term “low- or moderate-income neighborhood” means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

(D) AFFORDABLE FOR VERY-LOW INCOME HOUSEHOLDS.—For purposes of paragraph (2)(B) the term “affordable for very-low income households” means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.

(k) PUBLIC USE DATABASE.—

(1) DATA.—Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

(A) data consistent with that reported under section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975; and

(C) any other data elements that the Director considers appropriate.

(2) PUBLIC USE DATABASE.—

(A) IN GENERAL.—The Director shall make available to the public, in a form that is useful to the public (including

forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

(B) PROPRIETARY INFORMATION.—Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.

SEC. 10a. [Omitted]

SEC. 10b. [12 U.S.C. 1430b] (a) IN GENERAL.—Each Federal Home Loan Bank is authorized to make advances to nonmember mortgagees approved under title II of the National Housing Act. Such mortgagees must be chartered institutions having succession and subject to the inspection and supervision of some governmental agency, and whose principal activity in the mortgage field must consist of lending their own funds. Such advances shall not be subject to the other provisions and restrictions of this Act, but shall be made upon the security of insured mortgages, insured under title II of the National Housing Act. Advances made under the terms of this section shall be at such rates of interest and upon such terms and conditions as shall be determined by the Director, but no advance may be for an amount in excess of 90 per centum of the unpaid principal of the mortgage loan given as security.

(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

(1) such advance otherwise meets the requirements of this subsection; and

(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.

SEC. 10C. [12 U.S.C. 1430c] HOUSING GOALS.

(a) IN GENERAL.—The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal Home Loan Banks. Such goals shall be consistent with the goals established under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

(b) CONSIDERATIONS.—In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

(c) TRANSITION PERIOD.—To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following the date of enactment of this section.

(d) MONITORING AND ENFORCEMENT OF GOALS.—The requirements of section 1336 of the Federal Housing Enterprises Safety

and Soundness Act of 1992, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

(e) ANNUAL REPORT.—The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.

GENERAL POWERS AND DUTIES OF BANKS

SEC. 11. [12 U.S.C. 1431] (a) Each Federal Home Loan Bank shall have power, subject to rules and regulations prescribed by the Director to borrow and give security therefor and to pay interest thereon, to issue debentures, bonds, or other obligations upon such terms and conditions as the Director may approve, and to do all things necessary for carrying out the provisions of this Act and all things incident thereto.

(b) The Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank debentures which shall be the joint and several obligations of all Federal Home Loan Banks organized and existing under this Act, in order to provide funds for any such bank or banks, and such debentures shall be issued upon such terms and conditions as such Office may prescribe. No such debentures shall be issued at any time if any of the assets of any Federal Home Loan Bank are pledged to secure any debts or subject to any lien, and neither the Office of Finance nor any Federal Home Loan Bank shall have power to pledge any of the assets of any Federal Home Loan Bank, or voluntarily to permit any lien to attach to the same while any of such debentures so issued are outstanding. The debentures issued under this section and outstanding shall at no time exceed five times the total paid-in capital of all the Federal Home Loan Banks as of the time of the issue of such debentures. It shall be the duty of the Office of Finance not to issue debentures under this section in excess of the notes or obligations of member institutions held and secured under section 10(a) of this Act by all the Federal Home Loan Banks.

(c) At any time that no debentures are outstanding under this Act, or in order to refund all outstanding consolidated debentures issued under this section, the Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank bonds which shall be the joint and several obligations of all the Federal Home Loan Banks, and shall be secured and be issued upon such terms and conditions as such Office may prescribe.

(d) The Director shall have full power to require any Federal Home Loan Bank to deposit additional collateral or to make substitutions of collateral or to adjust equities between the Federal Home Loan Banks.

(e)(1) Each Federal Home Loan Bank shall have power to accept deposits made by members of such bank or by any other Federal Home Loan Bank or other instrumentality of the United States, upon such terms and conditions as the Director may prescribe, but no Federal Home Loan Bank shall transact any banking or other business not incidental to activities authorized by this Act.

(2)(A) The Director may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Direc-

tor shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 4, and to have such incidental powers as the Director shall find necessary for the exercise of any such authorization.

(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Director consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

(C) The Director is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Federal Home Loan Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Director may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.

(f) The Director is authorized and empowered to permit or to require Federal Home Loan Banks, upon such terms and conditions as the Director may prescribe, to rediscount the discounted notes of members held by other Federal Home Loan Banks, or to make loans to, or make deposits with, such other Federal Home Loan Banks, or to purchase any bonds or debentures issued under this section.

(g) Each Federal Home Loan Bank shall at all times have at least an amount equal to the current deposits received from its members invested in (1) obligations of the United States, (2) deposits in banks or trust companies, (3) advances with a maturity of not to exceed five years which are made to members, upon such terms and conditions as the Director may prescribe, and (4) advances with a maturity of not to exceed five years which are made to members whose creditor liabilities (not including advances from the Federal Home Loan Bank) do not exceed 5 per centum of their net assets, and which may be made without the security of home mortgages or other security, upon such terms and conditions as the Director may prescribe.

(h) Such part of the assets of each Federal Home Loan Bank (except reserves and amounts provided for in subsection (g)) as are not required for advances to members, may be invested, to such extent as the bank may deem desirable and subject to such regula-

tions, restrictions, and limitations as may be prescribed by the Director, in obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association, or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act, in the stock of the Federal National Mortgage Association in stock, obligations, or other securities of any small business investment company formed pursuant to section 301 of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(i) The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to this section, as heretofore, now, or hereafter in force and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public-debt transactions of the United States. The Secretary of the Treasury shall not at any time purchase any obligations under this paragraph if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this paragraph to an amount greater than \$4,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions as shall be determined by the Secretary of the Treasury and shall bear such rate of interest as may be determined by the Secretary of the Treasury taking into consideration the current average market yield for the month preceding the month of such purchase on outstanding marketable obligations of the United States.

In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed \$2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after the date of enactment of the Depository Institutions Amendments of 1974 only if the Secretary of the Treasury and the Chairperson of the Director certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Federal Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to

supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.

(j) Notwithstanding the provisions of the first sentence of section 202 of the Government Corporation Control Act, audits by the General Accounting Office of the financial transactions of a Federal Home Loan Bank shall not be limited to periods during which Government capital has been invested therein. The provisions of the first sentence of subsection (d) of section 303 of the Government Corporation Control Act shall not apply to any Federal Home Loan Bank.¹⁴

(k) BANK LOANS TO THE DEPOSIT INSURANCE FUND.—

(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Deposit Insurance Fund.

(2) LIABILITY OF THE FUND.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Deposit Insurance Fund.

(3) INTEREST ON AND SECURITY FOR SUCH LOANS.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

(A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and

(B) be adequately secured.

(l) TEMPORARY AUTHORITY OF TREASURY TO PURCHASE OBLIGATIONS; CONDITIONS.—

(1) AUTHORITY TO PURCHASE.—

(A) GENERAL AUTHORITY.—In addition to the authority under subsection (i) of this section, the Secretary of the Treasury is authorized to purchase any obligations issued by any Federal Home Loan Bank under any section of this Act, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires a Federal Home Loan Bank to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Federal Home Loan Bank. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Federal Home Loan Bank, to engage in open market purchases of the common securities of any Federal Home Loan Bank.

(B) EMERGENCY DETERMINATION REQUIRED.—In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

(i) provide stability to the financial markets;

¹⁴The provisions of the Government Corporation Control Act have been incorporated into title 31, United States Code, as chapter 91 of such title. The reference to the 1st sentence of section 202 of such Act should probably have been a reference to section 9105(a)(1) of such title (as in effect prior to the amendments made by P.L. 101-576). P.L. 101-576 rewrote such section 9105 in a way which makes the 1st sentence of this subsection unnecessary. The reference to section 303 of such Act should probably be a reference to section 9107(c)(2) of such title.

(ii) prevent disruptions in the availability of mortgage finance; and

(iii) protect the taxpayer.

(C) CONSIDERATIONS.—To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

(i) The need for preferences or priorities regarding payments to the Government.

(ii) Limits on maturity or disposition of obligations or securities to be purchased.

(iii) The Federal Home Loan Bank's plan for the orderly resumption of private market funding or capital market access.

(iv) The probability of the Federal Home Loan Bank fulfilling the terms of any such obligation or other security, including repayment.

(v) The need to maintain the Federal Home Loan Bank's status as a private shareholder-owned company.

(vi) Restrictions on the use of Federal Home Loan Bank resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

(D) REPORTS TO CONGRESS.—Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—

(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) SALE OF OBLIGATIONS.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation acquired by the Secretary under this subsection.

(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

(i) dedicated for the sole purpose of deficit reduction; and

(ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations purchased is not subject to the provisions of paragraph (4).

(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the purposes for which securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) TERMINATION OF AUTHORITY.—The authority under this subsection (1), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) AUTHORITY OF THE DIRECTOR WITH RESPECT TO EXECUTIVE COMPENSATION.—The Director shall have the power to approve, disapprove, or modify the executive compensation of the Federal Home Loan Bank, as defined under Regulation S-K, 17 C.F.R. 229.

INCORPORATION OF BANKS, AND CORPORATE POWERS

SEC. 12. [12 U.S.C. 1432] (a) The directors of each Federal Home Loan Bank shall, in accordance with such rules and regulations as the Director may prescribe, make and file with the Director at the earliest practicable date after the establishment of such bank, an organization certificate which shall contain such information as the Director may require. Upon the making and filing of such organization certificate with the Director, such bank shall become, as of the date of the execution of its organization certificate, a body corporate, and as such and in its name as designated by the Director it shall have power to adopt, alter, and use a corporate seal; to make contracts; to purchase or lease and hold or dispose of such real estate as may be necessary or convenient for the transaction of its business; to sue and be sued, to complain, and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of its business; to define their duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Director. No officer, employee, attorney, or agent of a Federal home loan bank who receives compensation, may be a member of the board of directors. Each such bank shall have all such incidental powers, not inconsistent with the provisions of this Act, as are customary and usual in corporations generally.

(b) Subject to such regulations as may be prescribed by the Director, one or more Federal home loan banks may acquire, hold, or dispose of, in whole or in part, or facilitate such acquisition, holding, or disposition by members of any such bank of, housing project loans, or interests therein, having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961, as now or hereafter in effect, or loans, or interests therein, having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections. This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 221 or 222 of the Foreign Assistance Act of 1961, as amended by section 105 of the Foreign Assistance Act of 1969 or as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

EXEMPTION FROM TAXATION

SEC. 13. [12 U.S.C. 1433] Any and all notes, debentures, bonds, and other such obligations issued by any bank, and consolidated Federal Home Loan Bank bonds and debentures, shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The bank, including its franchise, its capital, reserves, and surplus, its advances, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that in ¹⁵ any real property of the bank shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The notes, debentures, and bonds issued by any bank, with unearned coupons attached, shall be accepted at par by such bank in payment of or as a credit against the obligation of any home-owner debtor of such bank.

SEC. 14. [12 U.S.C. 1434] When designated for that purpose by the Secretary of the Treasury, each Federal Home Loan Bank shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties as depository of public money and financial agent of the Government as may be required of it.

SEC. 15. [12 U.S.C. 1435] Obligations of the Federal Home Loan Banks issued with the approval of the Director or the Director ¹⁶ under this Act shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Fed-

¹⁵So in original. The word "in" probably should be omitted.

¹⁶So in law. See amendments made by paragraphs (7) and (8) of section 1204 of Public Law 110-289.

eral reserve banks are authorized to act as depositaries, custodians, and/or fiscal agents for Federal Home Loan Banks in the general performance of their powers under this Act. All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States.

RESERVES AND DIVIDENDS

SEC. 16. [12 U.S.C. 1436] (a) Each Federal Home Loan Bank may carry to a reserve account from time-to-time¹⁷ such portion of its net earnings as may be determined by its board of directors. Each Federal Home Loan Bank shall establish such additional reserves and/or make such charge-offs on account of depreciation or impairment of its assets as the Director shall require from time to time. No dividends shall be paid except out of previously retained earnings or current net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this Act have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 21 or payments relating to the Funding Corporation Principal Fund under section 21B(e). The reserves of each Federal Home Loan Bank shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the Director, in direct obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(b) Notwithstanding subsection (a) or any other provision of this Act, if the Director determines that severe financial conditions exist threatening the stability of member institutions, the Director may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.

(c) EXCEPTION IN CASE OF LOSSES IN CONNECTION WITH FINANCING CORPORATION STOCK.—

(1) IN GENERAL.—Notwithstanding subsection (a) of this section, if—

(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank's investment in the stock of the Financing Corporation under section 21;

(B) the Director determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

¹⁷So in original.

(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,
the Director may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 21(d)(7)) or the reserve account required by the first 2 sentences of subsection (a).

(2) REQUIREMENTS OF SECTION 21 NOT AFFECTED.—Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Director under paragraph (1), the applicable provisions of section 21 shall continue to apply with respect to such bank, and to such bank's investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.

【Section 17—Repealed by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (see section 703(a) of such Act, 103 Stat. 415).】

ADMINISTRATIVE EXPENSES

SEC. 18. 【12 U.S.C. 1438】

【(a)—Repealed by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (see section 712 of such Act, 103 Stat. 419).】

【(b)—Repealed by section 1204(2) of Public Law 110–289】

【(c)—Repealed by section 364(a) of Public Law 111–203】

【Sections 19 and 19A—Repealed by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (see sections 708 and 712 of such Act, 103 Stat. 418 and 419).】

EXAMINATIONS AND REPORTS

SEC. 20. 【12 U.S.C. 1440】 The Director shall from time to time, at least annually, require examinations and reports of condition of all Federal Home Loan Banks in such form as the Director shall prescribe and shall furnish periodically statements based upon the reports of the banks to the Director. For the purposes of this Act, examiners appointed by the Director shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act and the Federal Reserve Act, and shall have, in the exercise of functions under this Act, the same powers and privileges as are vested in such examiners by law. In addition to such examinations, the Comptroller General may audit or examine the Director and the Banks, to determine the extent to which the Director and the Banks are fairly and effectively fulfilling the purposes of this Act.

SEC. 20A. 【12 U.S.C. 1440A】 SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.

(a) INFORMATION ON FINANCIAL CONDITION.—In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks as-

sociated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank.

(b) SHARING OF INFORMATION.—

(1) IN GENERAL.—The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks.

(2) LIMITATION.—Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such information is proprietary and that the public interest requires that such information not be shared.

(c) LIMITATION.—Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.

(d) NO WAIVER OF PRIVILEGE.—The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purposes set out in subsection (a).

SEC. 21. [12 U.S.C. 1441] FINANCING CORPORATION.

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, the Director shall charter a corporation to be known as the Financing Corporation.

(b) MANAGEMENT OF FINANCING CORPORATION.—

(1) DIRECTORATE.—The Financing Corporation shall be under the management of a directorate composed of 3 members as follows:

(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

(B) 2 members selected by the Director from among the presidents of the Federal Home Loan Banks.

(2) TERMS.—Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have

served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

(5) CHAIRPERSON.—The Director shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) STAFF.—

(A) NO PAID EMPLOYEES.—The Financing Corporation shall have no paid employees.

(B) POWERS.—The Directorate may, with the approval of the Directors, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

(7) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay shall be determined by the Director by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Director required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by

(ii) the aggregate amount the Director required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(C) ADMINISTRATIVE EXPENSES DEFINED.—For purposes of this paragraph, the term “administrative expenses” does not include—

(i) issuance costs (as such term is defined in subsection (g)(5)(A));

(ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or

(iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

(8) REGULATION BY FEDERAL HOUSING FINANCE BOARD¹⁸.—The Directorate shall be subject to such regulations, orders, and directions as the Director may prescribe.

(9) NO COMPENSATION FROM FINANCING CORPORATION.—Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

(c) POWERS OF FINANCING CORPORATION.—The Financing Corporation shall have only the following powers, subject to the other

¹⁸So in law. Probably should read “REGULATION BY DIRECTOR”. See amendment made by section 1204(12) of Public Law 110–289.

provisions of this section and such regulations, orders, and directions as the Director may prescribe:

(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

(2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation under section 402(b) of the National Housing Act prior to the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund.

(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) To impose assessments in accordance with subsection (f).

(5) To adopt, alter, and use a corporate seal.

(6) To have succession until dissolved.

(7) To enter into contracts.

(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

(9) To exercise such incidental powers not inconsistent with the provisions of this section as are necessary or appropriate to carry out the provisions of this section.

(d) CAPITALIZATION OF FINANCING CORPORATION.—

(1) PURCHASE OF CAPITAL STOCK BY FEDERAL HOME LOAN BANKS.—

(A) IN GENERAL.—Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Director may prescribe under this subsection.

(B) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Director and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Director at not less than par value.

(2) AGGREGATE DOLLAR AMOUNT LIMITATION ON ALL INVESTMENTS.—The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed \$3,000,000,000.

(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

(A) the sum of—

(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

- (ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and
- (B) the sum of—
 - (i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and
 - (ii) the undivided profits of such bank accruing after such date.

(4) PRO RATA DISTRIBUTION OF 1ST \$1,000,000,000 INVESTED IN FINANCING CORPORATION BY HOME LOAN BANKS.—Of the first \$1,000,000,000 in the aggregate which the Thrift Depositor Protection Oversight Board pursuant to section 21B or the Director under this section (as the case may be) may require the Federal Home Loan Banks collectively to invest in the stock of the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board or the Director (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF \$1,000,000,000.—With respect to any amount in excess of the \$1,000,000,000 amount referred to in paragraph (4) which the Director may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Director by multiplying such excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all insured institutions¹⁹ which are members of such bank; by

(B) the sum of the total assets (as of such date) held by all insured institutions¹⁹ which are members of any Federal Home Loan Bank.

(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

¹⁹ Section 512(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 103 Stat. 406, amended section 21 by striking “insured institution” each place it appears and inserting “Savings Association Insurance Fund member”. The term “insured institutions” should probably be changed to “Savings Association Insurance Fund members”.

(A) IN GENERAL.—If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Director under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the “excess amount”)—

(i) the Director shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

(ii) the Director shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING HOME LOAN BANKS.—The amount each remaining Federal Home Loan Bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Director by multiplying the excess amount by the percentage arrived at by dividing—

(i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by

(ii) the aggregate amount of such stock held by all remaining banks at such time.

(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Director by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to $\frac{1}{2}$ of the net earnings of the bank for the year.

(E) TRANSFER TO ACCOUNT FOR PURCHASE OF STOCK REQUIRED.—Of the net earnings for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases

of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Director shall prescribe by regulations) the balance in which shall be available only for such purchases.

(7) UNDIVIDED PROFITS DEFINED.—For purposes of paragraph (3), the term “undivided profits” means retained earnings minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first two sentences of section 16 of this Act; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

Bank	Dollar amount
Federal Home Loan Bank of Boston	\$3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million
Federal Home Loan Bank of Seattle	33.6 million

(e) OBLIGATIONS OF THE FINANCING CORPORATION.—

(1) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Director) shall not exceed the lesser of—

(A) an amount equal to the greater of—

(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

(B) \$10,825,000,000.

(2) TERMINATION OF BORROWING AUTHORITY.—No obligation of the Financing Corporation shall be issued after the date of enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

(3) LIMITATION ON TERM OF OBLIGATIONS.—No obligation of the Financing Corporation may be issued which matures—

(A) more than 30 years after the date of issue; or

(B) after December 31, 2026.

(4) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Financing Corporation with the approval of the Director shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which

shall be under the authority or control of the United States or any officer of the United States.

(5) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

(6) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the FSLIC Resolution Fund and the obligations shall so plainly state.

(7) TAX EXEMPT STATUS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13.

(B) EXCEPTION.—The Financing Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

(8) OBLIGATIONS ARE EXEMPT SECURITIES.—Notwithstanding paragraph (7),²⁰ obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

(9) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The Chairperson of the Director and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued under this section.

(f) SOURCES OF FUNDS FOR INTEREST PAYMENTS; FINANCING CORPORATION ASSESSMENT AUTHORITY.—The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

(1) PREENACTMENT ASSESSMENTS.—The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) NEW ASSESSMENT AUTHORITY.—In addition to the amounts obtained pursuant to paragraph (1), the Financing

²⁰ So in original. Probably should refer to paragraph (6) in view of the renumbering of paragraph (7) as (6) by section 512(12)(A) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 407).

Corporation, with the approval of the Director²¹ of Directors of the Federal Deposit Insurance Corporation, shall assess against each insured depository institution an assessment (in the same manner as assessments are assessed against such institutions by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act).

(3) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 21B, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund (established under section 11A of the Federal Deposit Insurance Act) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.

(g) USE AND DISPOSITION OF ASSETS OF THE FINANCING CORPORATION NOT INVESTED IN FSLIC.—

(1) IN GENERAL.—Subject to such regulations, restrictions, and limitations as may be prescribed by the Director, assets of the Financing Corporation, which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and after such date in capital certificates issued by the FSLIC Resolution Fund, shall be invested in—

(A) direct obligations of the United States;

(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 305 or 306 of the Federal Home Loan Mortgage Corporation Act; or

(D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

(2) SEGREGATED ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ASSURE PAYMENT OF PRINCIPAL.—The Financing Corporation shall invest in, and hold in a segregated account, non-interest bearing instruments—

(A) which are securities described in paragraph (1);

and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

²¹So in law. Probably should read “Board”. See amendment made by section 1204(8) of Public Law 110–289.

to assure the repayment of principal on obligations of the Financing Corporation. For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries provided that United States Treasury securities of equal or greater value have been delivered as collateral.

(3) DOLLAR AMOUNT LIMITATION ON INVESTMENT IN ZERO COUPON INSTRUMENTS FOR SEGREGATED ACCOUNT.—The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed \$2,200,000,000 (as determined on the basis of the purchase price).

(4) EXCEPTION FOR PAYMENT OF ISSUANCE COSTS, INTEREST, AND CUSTODIAN FEES.—Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

(A) issuance costs;

(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

(C) custodian fees.

(5) DEFINITIONS.—For purposes of this subsection—

(A) ISSUANCE COSTS.—The term “issuance costs”—

(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and

(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

(B) CUSTODIAN FEES.—The term “custodian fee” means—

(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

(h) MISCELLANEOUS PROVISIONS RELATING TO FINANCING CORPORATION.—

(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (e)(8)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 13 and 23.

(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATION.—Notwithstanding the fact that no Government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

(i) TERMINATION OF THE FINANCING CORPORATION.—

(1) IN GENERAL.—The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or

(B) December 31, 2026.

(2) FEDERAL HOUSING FINANCE BOARD²²AUTHORITY TO CONCLUDE THE AFFAIRS OF FINANCING CORPORATION.—Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Director may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Director determines to be necessary to settle and conclude the affairs of the Financing Corporation.

(j) REGULATIONS.—The Director may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) DIRECTORATE.—The term “Directorate” means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.”

(2) NET EARNINGS DEFINED.—The term “net earnings” means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f) of section 21B.

(3) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act

【Section 21A—Repealed by the Dodd-Frank Wall Street Reform and Consumer Protection Act (see section 364(b) of such Act, 124 Stat. 1555.】

SEC. 21B. [12 U.S.C. 1441b] RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) PURPOSE.—The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this Act.

(b) ESTABLISHMENT.—There is established a corporation to be known as the Resolution Funding Corporation.

(c) MANAGEMENT OF FUNDING CORPORATION.—

²²So in law. Probably should read “DIRECTOR”. See amendment made by section 1204(12) of Public Law 110–289.

(1) **DIRECTORATE.**—The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

(A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

(B) 2 members selected by the Thrift Depositor Protection Oversight Board from among the presidents of the Federal Home Loan Banks.²³

(2) **TERMS.**—Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

(3) **VACANCY.**—If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) **EQUAL REPRESENTATION OF BANKS.**—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

(5) **CHAIRPERSON.**—The Thrift Depositor Protection Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) **STAFF.**—

(A) **NO PAID EMPLOYEES.**—The Funding Corporation shall have no paid employees.

(B) **POWERS.**—The Directorate may, with the approval of the Director authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

(7) **ADMINISTRATIVE EXPENSES.**—

(A) **IN GENERAL.**—All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

(B) **PRO RATA DISTRIBUTION.**—The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Thrift Depositor Protection Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (computed without regard to paragraphs (3) or (6) of such subsection); by

²³Note: The Thrift Depositor Protection Oversight Board was abolished under section 14 of the Homeowners Protection Act of 1998 (12 U.S.C. 1441a note) and the Board's authority and duties under this section were transferred to the Secretary of the Treasury.

(ii) the aggregate amount the Thrift Depositor Protection Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(8) REGULATION BY THRIFT DEPOSITOR PROTECTION²⁴ OVERSIGHT BOARD.—The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe.

(9) NO COMPENSATION FROM FUNDING CORPORATION.—Members of the Directorate of the Funding Corporation shall receive no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

(d) POWERS OF THE FUNDING CORPORATION.—The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe:

(1) ISSUE STOCK.—To issue nonvoting capital stock to the Federal Home Loan Banks.

(2) PURCHASE CAPITAL STOCK; TRANSFER AMOUNTS.—To purchase capital certificates issued by the Resolution Trust Corporation under section 21A, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

(3) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) IMPOSE ASSESSMENTS.—To impose assessments in accordance with subsection (e)(7).

(5) CORPORATE SEAL.—To adopt, alter, and use a corporate seal.

(6) SUCCESSION.—To have succession until dissolved.

(7) CONTRACTS.—To enter into contracts.

(8) AUTHORITY TO SUE.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

(9) INCIDENTAL POWERS.—To exercise such incidental powers not inconsistent with the provisions of this section and section 21A as are necessary and appropriate to carry out the provisions of this section.

(e) CAPITALIZATION OF FUNDING CORPORATION, ETC.—

(1) IN GENERAL.—

(A) AMOUNT REQUIRED.—The Thrift Depositor Protection Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

(i) the Funding Corporation may transfer the amounts required under paragraph (8); and

²⁴Section 1613(a)(7) of the Housing and Community Development Act of 1992 (P.L. 102–550; 106 Stat. 4092) incorrectly cites the short title. It amends the Federal Home Loan Act, instead the amendment probably should have amended the Federal Home Loan Bank Act.

(ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(B) PURCHASES OF STOCK BY FEDERAL HOME LOAN BANKS.—Each Federal Home Loan Bank shall purchase stocks in the Funding Corporation at times and in amounts prescribed by the Thrift Depositor Protection Oversight Board.

(2) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Thrift Depositor Protection Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Thrift Depositor Protection Oversight Board.

(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

(A) RESERVES AND UNDIVIDED PROFITS ON DECEMBER 31, 1988.—The sum on December 31, 1988, of—

(i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

(ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 21.

(B) SUBSEQUENT ADDITIONS TO RESERVES AND UNDIVIDED PROFITS.—The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

(i) the sum of—

(I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

(II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus

(ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21.

(C) ANNUAL ADJUSTMENT.—The amounts in subparagraph (B) shall be adjusted as follows:

(i) INCREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than \$300,000,000 per year,

the limit for each Bank shall be increased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(ii) DECREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than \$300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(4) PRO RATA DISTRIBUTION OF FIRST \$1,000,000,000 INVESTED IN FUNDING CORPORATION BY FEDERAL HOME LOAN BANKS.—Of the first \$1,000,000,000 of the aggregate that the Director (pursuant to section 21) or the Thrift Depositor Protection Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Director or the Thrift Depositor Protection Oversight Board (as the case may be) by multiplying the aggregate amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF \$1,000,000,000.—Of any amount which the Thrift Depositor Protection Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the \$1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members as of the date of funding which are members of such Bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members as of

the date of funding which are members of a Federal Home Loan Bank.

(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

(A) IN GENERAL.—If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a "deficient Bank") under paragraph (3) at the time of such determination (in this paragraph referred to as the "excess amount")—

(i) the Thrift Depositor Protection Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a "remaining Bank") to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

(ii) the Thrift Depositor Protection Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING FEDERAL HOME LOAN BANKS.—

(i) IN GENERAL.—The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by

(II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

(ii) REALLOCATION.—If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

(C) REIMBURSEMENT PROCEDURE.—

(i) IN GENERAL.—A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make pay-

ments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

(ii) DETERMINATION OF AMOUNTS.—The Thrift Depositor Protection Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

(D) TRANSFER TO ACCOUNT FOR REIMBURSEMENTS REQUIRED.—

(i) IN GENERAL.—Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Thrift Depositor Protection Oversight Board), which shall be available only for such reimbursements.

(ii) LIMITATION.—The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

(f) OBLIGATIONS OF FUNDING CORPORATION.—

(1) ISSUANCE.—The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed \$30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

(A) EARNINGS ON CERTAIN ASSETS.—Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

(B) PROCEEDS FROM RESOLUTION TRUST CORPORATION.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

(i) the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Thrift Depositor Protection Oversight Board to be in excess of funds presently necessary for resolution costs; and

(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.0 percent of the net earnings of that Bank (after deducting expenses relating to section 10(j) and operating expenses).

(ii) ANNUAL DETERMINATION.—The Director annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of \$300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations, in consultation with the Secretary of the Treasury.

(iii) PAYMENT TERM ALTERATIONS.—The Director shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

(iv) TERM BEYOND MATURITY.—If the Director extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.0 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.0 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the Banks to the Treasury, the Director shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.

(v) SEMIANNUAL REPORTS.—The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.

(D) PROCEEDS FROM SALE OF ASSETS.—To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

(E) TREASURY BACKUP.—

(i) IN GENERAL.—To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

(ii) LIABILITY OF FUNDING CORPORATION.—In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

(iii) APPROPRIATION OF FUNDS.—There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

(4) PROCEEDS TO BE TRANSFERRED TO RESOLUTION TRUST CORPORATION.—Subject to terms and conditions approved by the Thrift Depositor Protection Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 21A; or

(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Funding Corporation, at the direction of the Thrift Depositor Protection Oversight Board shall be lawful investments, and may be ac-

cepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

(7) TAX EXEMPT STATUS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13 of this Act.

(B) EXCEPTION.—The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

(8) OBLIGATIONS NOT EXEMPT SECURITIES.—

(A) IN GENERAL.—For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

(ii) shall not be considered to be “exempted securities” within the meaning of section 3(a)(12)(A)(i) of the Securities Exchange Act of 1934, except that such obligations shall be considered to be exempted securities for purposes of section 15 of such Act.

(B) AUTHORITY OF COMMISSION.—Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of 1933, subject to such terms and conditions as the Commission may prescribe.

(9) MINORITY PARTICIPATION IN PUBLIC OR NEGOTIATED OFFERINGS.—The Thrift Depositor Protection Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

(10) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

(g) USE AND DISPOSITION OF ASSETS OF FUNDING CORPORATION NOT TRANSFERRED TO RESOLUTION TRUST CORPORATION.—

(1) IN GENERAL.—Subject to regulations, restrictions, and limitations prescribed by the Thrift Depositor Protection Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 21A and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

(2) SEPARATE ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ENSURE PAYMENT OF PRINCIPAL.—Except as provided in subsection (e)(8), the Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

(A) which are direct obligations of the United States issued by the Secretary; and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(h) MISCELLANEOUS PROVISIONS.—

(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated as a Federal Home Loan Bank for purposes of section 13 (to the extent such section relates to State, municipal, and local taxation) and section 23.

(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATIONS.—The Funding Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

(4) JURISDICTION AND POWER TO REMOVE.—

(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

(B) REMOVAL.—The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(i) ANNUAL REPORT.—

(1) IN GENERAL.—The Thrift Depositor Protection Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

(3) SUBMISSION TO CONGRESS AND PRESIDENT.—The Thrift Depositor Protection Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

(j) TERMINATION OF FUNDING CORPORATION.—

(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

(2) AUTHORITY OF THRIFT DEPOSITOR PROTECTION²⁵ OVERSIGHT BOARD TO CONCLUDE AFFAIRS OF FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Thrift Depositor Protection Oversight Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Thrift Depositor Protection Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATIVE EXPENSES.—The term “administrative expenses” does not include—

(A) any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

(B) issuance costs.

(2) CUSTODIAN FEE.—The term “custodian fee” means—

(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

(3) FUNDING CORPORATION.—The term “Funding Corporation” means the Resolution Funding Corporation established in subsection (b).

²⁵Section 1613(a)(7) of the Housing and Community Development Act of 1992 (P.L. 102–550; 106 Stat. 4092) incorrectly cites the short title. It amends the Federal Home Loan Act, instead the amendment probably should have amended the Federal Home Loan Bank Act.

(4) **FUNDING CORPORATION PRINCIPAL FUND.**—The term “Funding Corporation Principal Fund” means the separate account established under subsection (g)(2).

(5) **ISSUANCE COSTS.**—The term “issuance costs”—

(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

(6) **NET EARNINGS.**—The term “net earnings” means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f).

(7) **THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**—The term “Thrift Depositor Protection Oversight Board” means—

(A) the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation under section 21A; and

(B) after the termination of the Resolution Trust Corporation—

(i) the Secretary of the Treasury;

(ii) the Chairman of the Director²⁶ of Governors of the Federal Reserve System; and

(iii) the Secretary of Housing and Urban Development.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(9) **UNDIVIDED PROFITS.**—The term “undivided profits” means earnings retained after dividends have been paid minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 16; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

(1) **REGULATIONS.**—The Thrift Depositor Protection Oversight Board may prescribe any regulations necessary to carry out this section.

SEC. 22. [12 U.S.C. 1442] MEMBER FINANCIAL INFORMATION.

(a) **IN GENERAL.**—In order to enable the Federal Home Loan Banks to carry out the provisions of this Act, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Di-

²⁶So in law. Probably should read “Board”. See amendment made by section 1204(8) of Public Law 110–289.

rector²⁷ of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director²⁷ of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this Act; and

(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

In addition, the Comptroller of the Currency, the Chairman of the Director of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Director or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Director or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

(b) CONSENT BY MEMBERS.—Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

(1) to consent to such examinations as the Bank or the Director may require for the purposes of this Act;

(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Director upon request; and

(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.

SEC. 23. [12 U.S.C. 1443] FORMS OF BANK STOCK AND OBLIGATIONS.

Any stock, debentures, bonds, notes, or other obligations issued under the authority of this Act may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Director of Directors of the Director²⁸ may provide.

SEC. 24. [12 U.S.C. 1444] (a) Any organization organized under the laws of any State and subject to inspection and regulation under the banking or similar laws of such State shall be eligible to become a member under this Act if—

(1) it is organized solely for the purpose of supplying credit to its members;

(2) its membership (A) is confined exclusively to building and loan associations, savings and loan associations, coopera-

²⁷ So in law. Probably should read "Board". See amendment made by section 1204(8) of Public Law 110-289.

²⁸ So in law. Probably should read "or guidelines as the Director may provide.". See amendments made by paragraphs (8) and (12) of section 1204 of Public Law 110-289.

tive banks, and homestead associations; or (B) is confined exclusively to savings banks; and

(3) of the institutions to which its membership is confined which are organized within the State, its membership includes a majority of such institutions.

(b) In all respects, but subject to such additional rules and regulations as the Director may provide, any such organization shall be a member for the purposes of this Act.

SEC. 25. [12 U.S.C. 1445] Each Federal Home Loan Bank shall have succession until dissolved by the Director under this Act or by further Act of Congress.

SEC. 26. [12 U.S.C. 1446] (a) IN GENERAL.—Whenever the Director finds that the efficient and economical accomplishment of the purposes of this Act will be aided by such action, and in accordance with such rules, regulations, and orders as the Director may prescribe, any Federal Home Loan Bank may be liquidated or reorganized, and its stock paid off and retired in whole or in part in connection therewith after paying or making provision for the payment of its liabilities. In the case of any such liquidation or reorganization, any other Federal Home Loan Bank may, with the approval of the Director, acquire assets of any such liquidated or reorganized bank and assume liabilities thereof, in whole or in part. At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.²⁹

(b) VOLUNTARY MERGERS AUTHORIZED.—

(1) IN GENERAL.—Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

(2) REGULATIONS REQUIRED.—The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1), including the procedures for Bank member approval.

[Sec. 27. Repealed by Public Law 106–102, sec. 606(c), 113 Stat. 1454.]

SEC. 28. [12 U.S.C. 1448] If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 29. That notwithstanding any provisions of law prohibiting bonds of the United States from bearing the circulation privilege, for a period of three years from the date of enactment of this Act all outstanding bonds of the United States heretofore issued or

²⁹Section 1214 of Public Law 110–289, which directed insertion of “At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5.” at the end of this section, was executed by making the insertion at the end of subsection (a), to reflect the probable intent of Congress and the amendment by section 1209 of such Public Law.

issued during such period, bearing interest at a rate not exceeding $3\frac{3}{8}$ per centum per annum, shall be receivable by the Treasurer of the United States as security for the issuance of circulating notes to national banking associations, and upon the deposit with the Treasurer of the United States by a national banking association of any such bonds, such association shall be entitled to receive circulating notes in the same manner and to the same extent and subject to the same conditions and limitations now provided by law in the case of 2 per centum gold bonds of the United States bearing the circulation privilege; except that the limitation contained in section 9 of the Act of July 12, 1882, as amended, with respect to the amount of lawful money which may be deposited with the Treasurer of the United States by national banking associations for the purpose of withdrawing bonds held as security for their circulating notes, shall not apply to the bonds of the United States to which the circulation privilege is extended by this section and which are held as security for such notes. Nothing contained in this section shall be construed to modify, amend, or repeal any law relating to bonds of the United States which now bear the circulation privilege.

As used in this section, the word "bond" shall not include notes, certificates, or bills issued by the United States.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 30. [12 U.S.C. 1449] The right to alter, amend, or repeal this Act is hereby expressly reserved.